

REMARKS

The Applicants thank the Examiner for the thorough consideration given the present application. Claims 2-6 are cancelled herein without prejudice to or disclaimer of the contents thereof. Claims 1 and 7-32 are pending, of which claims 16-21 and 26-31 are withdrawn, and claims 1, 7, 8, and 32 are amended. Claim 1 is independent. The Examiner is respectfully requested to reconsider the rejections in view of the amendments and remarks set forth herein.

Reasons for Entry of Amendments

At the outset, it is respectfully requested that this Amendment be entered into the Official File in view of the fact that the amendments to the claims automatically place the application in condition for allowance.

In the alternative, if the Examiner does not agree that this application is in condition for allowance, it is respectfully requested that this Amendment be entered for the purpose of appeal. This Amendment reduces the issues on appeal by canceling dependent claims 2-6, thereby reducing the number of pending claims. This Amendment was not presented at an earlier date in view of the fact that Applicants did not fully appreciate the Examiner's position until the Final Office Action was reviewed.

Allowable Subject Matter

The Examiner states that claims 8 and 32 would be allowable if rewritten in independent form.

Applicants thank the Examiner for the early indication of allowable subject matter in this application. However, claims 8 and 32 have not been rewritten in independent form at this time, since it is believed that independent claim 1 as amended from which these claims depend is allowable.

Examiner Interview

If, during further examination of the present application, any further discussion with the Applicants' Representative would advance the prosecution of the present application, the Examiner is encouraged to contact Carl T. Thomsen, at 1-703-208-4030 (direct line) at her convenience.

Rejections Under 35 U.S.C. §102(b)

Claims 1-7 and 10-15 stand rejected under 35 U.S.C. §103(a) as being anticipated by Ohama et al. (U.S. 6,044,684);

claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Ohama et al. in view of Ross (U.S. 3,802,248); and

claim 13 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Ohama et al. in view of Daido Steel Co. Ltd. (JP 58-218339).

These rejections are respectfully traversed.

Amendments to Independent Claim 1

While not conceding the appropriateness of the Examiner's rejections, but merely to advance prosecution of the present application, independent claim 1 has been amended herein to recite a combination of elements directed to a die apparatus, including *inter alia*

“wherein said first and second die members are moveable towards each other along a first axis to a closed position thereby partially forging said toothed portion from a blank placed in said die apparatus and forming a substantially closed cavity defined by said forming surfaces,

said first and second punch members being disposed on opposite sides of said cavity, between said first and second die members, and said first and second punch members being adapted to move towards each other along a second axis substantially perpendicular to said first axis, into said cavity, once said die members are in said closed position, thereby completing said forging operation.”

Support for the features now added to independent claim 1 can be seen, for example, in the published application U.S. 2007/0079643 A1 at paragraphs [0040] to [0050] with reference to Figs. 4 to 10.

FIGS. 6a to 6d each clearly show two axes. The vertical broken line passing through the centre of the die apparatus 50 represents a “first axis,” and the horizontal broken line represents a “second axis.” These two axes are clearly perpendicular to each other. In moving from the open position of FIG. 6a to the closed position of FIG. 6c, the die members 54 and 56 clearly move towards each other along the first axis (represented by the vertical broken

JMS/CTT/ktp/la

line), and in moving from the position of FIG. 6c to the final position of FIG. 6d, the two punch members 58 clearly move towards each other along the second axis (represented by the horizontal broken line).

The Examiner has rejected claims 1 and 6 of the present application on the basis that they are anticipated by Ohama et al. (US Patent 6,044,684). In the "Detailed Action" the Examiner has identified items 26 and 14 of the die apparatus disclosed in Ohama et al. as corresponding to the "first and second die members" of the present claims, and the Examiner has identified items 40 and 36 as corresponding to the "punch members." Items 26 and 14 of Ohama et al. move towards each along a vertical axis (compare FIG. 1 and FIG. 5 of Ohama et al., and items 36 and 40 of Ohama move towards each other along the same vertical axis (compare FIG. 5 and FIG. 6) of Ohama et al. Therefore, the identified "punch members" 36 and 40 of Ohama et al. move towards each other along an axis that is not perpendicular to the axis along which the identified "die members" 26 and 14 move.

As such, Ohama et al. do not anticipate independent claim 1, as amended herein.

Secondary references Ross et al. and JP 58-218339 were cited in the rejection of dependent claims 9 and 13, respectively. No combination of Ross et al. and JP 58-218339 can make up for the deficiency of Ohama et al. to teach or suggest the combination of elements set forth in independent claim 1.

At least for the reasons explained above, the Applicants respectfully submit that the combination of elements as set forth in independent claim 1 is not disclosed or made obvious by the prior art of record, including Ohama et al., Ross et al. and JP 58-218339.

Therefore, independent claim 1 is in condition for allowance.

Dependent Claims

The examiner will note that dependent claims 2-6 have been cancelled, and dependent claims 7, 8, and 32 have been amended to reflect the changes to independent claim 1.

All dependent claims as previously presented are in condition for allowance due to their dependency from allowable independent claims, or due to the additional novel features set forth therein.

All claims as previously presented are in condition for allowance

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. §103(a) are respectfully requested.

Application No.: 10/581,283
Amendment dated September 29, 2009
Reply to Office Action dated July 2, 2009

Docket No.: 4601-0113PUS1
Art Unit: 3725
Page 13 of 13

CONCLUSION

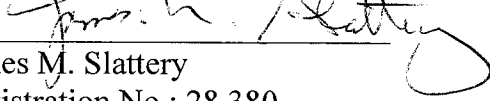
All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. It is believed that a full and complete response has been made to the outstanding Office Action, and that the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, he is invited to telephone Carl T. Thomsen (Reg. No. 50,786) at (703) 208-4030(direct line).

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

Dated: September 29, 2009

By 
James M. Slattery
Registration No.: 28,380
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant


JMS/CTT/ktp/la